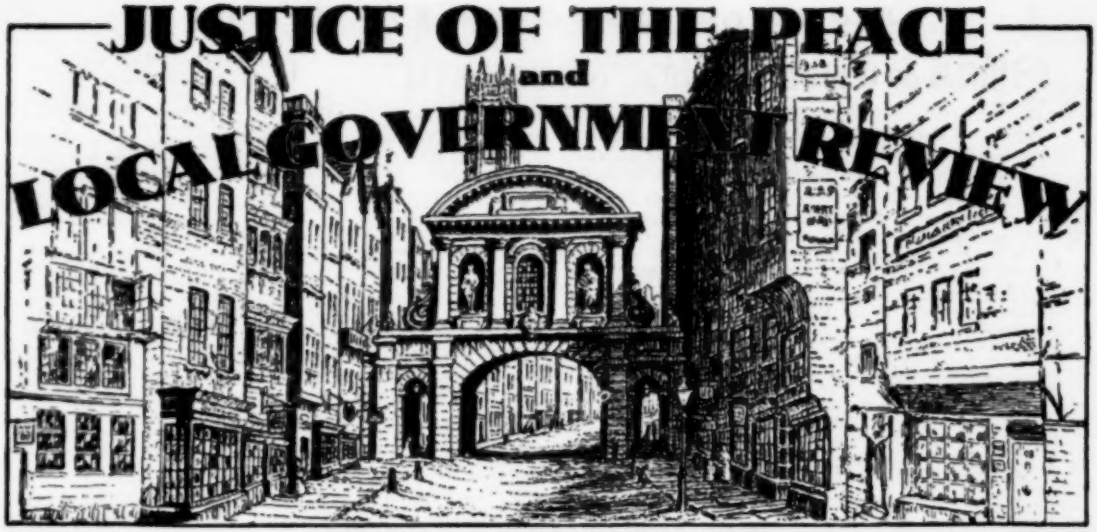


VOL. CXV. LONDON: SATURDAY, MAY 19, 1951. No. 20

CONTENTS

REPORTS

Official & Classified Advertisements, etc.

Official Advertisements (Appointments, Tenders, etc.), 2s. per line and 3s. per displayed headline. Classified Advertisements 24 words 6s. (each additional line 1s. 6d.) Box Number 1s. extra. *Latest time for receipt* 10 *a.m. Thursday.*

JUSTICE OF THE PEACE AND LOCAL GOVERNMENT REVIEW.
Published by: JUSTICE OF THE PEACE LTD., Little London, Chichester, Sussex.
Telephone: CHICHESTER 3637 (Private Branch Exchange).
Telegraphic Address: JUSLOCGOV, CHICHESTER.

SITUATIONS VACANT

REQUIRED by part time Justices' Clerk, Assistant experienced in the routine work. Box No. B34.

INQUIRIES

YORKSHIRE DETECTIVE BUREAU (Hoylands), **Ex-Detective Sergeant.** Member of B.D.A. and F.B.D. DIVORCE—CONFIDENTIAL ENQUIRIES, ETC., anywhere. Over 400 agents in all parts of the U.K. and abroad. 1, Mayo Road, Bradford. Tel. 26823, day or night.

PARKINSON & CO., East Boldon, Co. Durham. Private and Commercial Investigators. Instructions accepted from Solicitors only. Tel.: Boldon 7301. Available day and night.

CITY OF LEEDS

Appointment of Additional Full-Time Male Probation Officer

APPLICATIONS are invited for the above additional appointment.

Applicants must not be less than 23 nor more than 40 years of age except in the case of a Serving Full Time Probation Officer. The appointment will be subject to the Probation Rules, 1949, and the salary will be in accordance with such rules and subject to Superannuation deductions.

The successful candidate will be required to pass a medical examination.

Applications, stating age and qualifications and experience, together with copies of not more than two recent testimonials, must reach the undersigned not later than May 29, 1951.

T. C. FEAKES,
Secretary to the Probation Committee.

The Town Hall, Leeds, 1.

CITY OF BRADFORD

Appointment of Full-time Male Probation Officer

APPLICATIONS are invited for the above appointment.

Applicants must be not less than 23 years nor more than 40 years of age (except in the case of a whole-time serving officer.

The appointment will be subject to the Probation Rules, 1949, and 1950, and salary will be in accordance with the prescribed scale. The successful candidate will be required to pass a medical examination.

Applications, stating age, qualifications and experience, together with copies of three recent testimonials should be submitted to the undersigned not later than June 9, 1951.

FRANK OWENS,
Secretary to the Probation Committee.

Magistrates' Clerk's Office,
Town Hall, Bradford.

BOROUGH OF DAGENHAM

Appointment of Second Assistant Solicitor

APPLICATIONS are invited from newly admitted solicitors (or from Solicitors awaiting admission) for the appointment of Second Assistant Solicitor in the Town Clerk's department. Salary Grade V (a), *viz*: £600—£660 per annum plus London weighting. (Age 21 to 25—£20 p.a.; age 26 and over £30 p.a.)

A knowledge of local government is not essential. This post offers an excellent opportunity for the newly qualified solicitor to obtain wide experience of local government law and administration prior to advancing to the higher graded positions of the service.

Forms of application, together with further particulars of the post, may be obtained from, and should be returned to, the undersigned, not later than Friday, June 15, 1951.

Canvassing disqualifies.

The Council are unable to offer housing accommodation.

KEITH LAUDER,
Town Clerk.

Civic Centre,
Dagenham.

CITY OF SHEFFIELD

Senior Prosecuting Solicitor

APPLICATIONS are invited for the appointment of Senior Prosecuting Solicitor on the permanent Staff of the Town Clerk's Office at a salary in accordance with Grade X (at present £850 × £50—£1,000 per annum) of the scales of salaries of the National Joint Council of Local Authorities Staffs.

Applicants must be duly admitted Solicitors having a wide experience in Advocacy and Common Law and be prepared to take charge of both Prosecutions and the Common Law Sections and to assist as required in the general work of the Town Clerk's Department.

The appointment is subject to the conditions of service of the National Joint Council as adopted by and applied to the Staff of the Corporation, and is terminable by three months' notice on either side, which may be given at any time. The successful candidate will be required to pass a Medical Examination and will not be allowed to engage in private practice.

Applications, stating age, qualifications, experience, details of present and previous appointments, with two recent testimonials and the names of two other persons of whom personal enquiries can be made, must be delivered to the undersigned not later than Monday, June 4, 1951.

Canvassing, directly or indirectly, will disqualify.

JOHN HEYS,
Town Clerk.

Town Hall, Sheffield.
May 18, 1951.

COUNTY BOROUGH OF MIDDLESBROUGH

Appointment of Junior Assistant Solicitor

APPLICATIONS are invited for the appointment of Junior Assistant Solicitor at a salary in accordance with the National Scheme of Conditions of Service, namely:

(*a*) After admission and on first appointment —A.P.T. Division Grade V (a) (£600 —£660 per annum).

(*b*) After two years' legal experience from the date of admission—A.P.T. Division Grade VII (£685—£760 per annum).

The appointment is permanent, superannuable and subject to the National Scheme of Conditions of Service. Previous Local Government experience is not essential.

Forms of application and terms of appointment may be obtained from the undersigned, to whom they are returnable not later than 10 *a.m.* on Saturday, May 26, 1951.

E. C. PARR,
Town Clerk.

Town Clerk's Office,
Middlesbrough.

COUNTY BOROUGH OF NEWPORT

(Population 107,000)

ASSISTANT SOLICITOR required. Salary A.P.T. Va (£600 × £20 to £660) rising after two years' legal experience from date of admission to A.P.T. VII (£685 × £25 to £760). The post is permanent and superannuable and is determinable by one month's written notice on either side. Experience in advocacy is desirable. Terms and conditions are as laid down by the N.J.C. for Local Authorities' Administrative, Professional, Technical and Clerical Services. The successful candidate will be required to pass a medical examination. Applications stating age, qualifications, experience, and whether related to any member or senior officer of the Council should reach me by May 26, 1951. Canvassing will disqualify.

J. G. ILES,
Town Clerk.

Civic Centre,
Newport, Mon.
May 8, 1951.

LONDON COUNTY COUNCIL

APPLICATIONS are invited from admitted solicitors for temporary appointments. The commencing basic salaries are:

For solicitors admitted under one year £600; for solicitors admitted one year but less than two £625; for solicitors admitted for two years or more £650. The salary scale rises by annual increments of £25 to £700 a year.

An addition is made to all salary figures quoted above of ten *per cent.* on the first £600 and seven and a half *per cent.* on the remainder.

The appointments will be subject to the Council's Superannuation Scheme. A candidate engaged in a temporary capacity will be eligible to apply for any subsequent vacancy for a permanent solicitor assistant.

Application forms (with full particulars), obtainable by sending stamped addressed envelope marked "Temporary solicitor assistant" to the Solicitor and Parliamentary Officer, County Hall, Westminster Bridge, London, S.E.1. Completed applications to be returned by May 31, 1951. Canvassing disqualifies. (589).

Justice of the Peace
and
Local Government Review
[ESTABLISHED 1837.]

VOL. CXV. No. 20. | LONDON: SATURDAY, MAY 19, 1951 | Price 1s. 8d.
Pages 303-318 | Offices: Little London, Chichester, Sussex. | [Registered at the General Post Office as a Newspaper] | (including Reports)

NOTES of the WEEK

In "Charge" of a Car

A recent Scottish case *Adair* v. *M'Kenna* (1951) Sheriff Court Reports 40, turned on the interpretation of s. 15 (1) of the Road Traffic Act, 1930.

A mechanic, repairing a motor vehicle standing by the roadside was alleged to be under the influence of drink so as to be incapable of having proper control of a vehicle. He was charged under s. 15, but the case was dismissed on the ground that as he had no authority to drive the vehicle no offence was committed.

The fact that the section refers to inability to have proper control of the vehicle indicates that, as might be expected, the section deals with persons who are driving or may be likely to drive and so become a danger. It is of course quite probable that a person who does repairs to a car may test it by driving it. In the Scottish case, of which we have not yet seen a full report, the court must have been satisfied that the defendant was not a potential driver and was not in charge of the car for the purpose of driving.

The Clarke Hall Fellowship

The eleventh Clarke Hall lecture was delivered on May 8 by Mr. John Watson, chairman of the South-east London juvenile court, his subject being "The Juvenile Court, Today and Tomorrow." A large and appreciative audience heard the lecture, which was, by permission of the Treasurer and Masters of the Bench of Lincoln's Inn, given in the New Hall. The Earl of Feversham took the chair.

Mr. Watson suggested that there would be advantage to magistrates if there were fewer panels of juvenile court justices, as this would mean that those who at present had few opportunities of sitting would sit more often and thus gain needed experience. He was a firm believer in the English system of justice, and would never be content to hand over jurisdiction to committees of a non-judicial kind, sitting *in camera*.

Discussing the right of a young person to be tried by jury in respect of an indictable offence, the lecturer said it was generally difficult to make the defendant understand what was meant by trial by jury or what exactly he was being asked. In fact, the number who chose trial by jury was extremely small, and he thought it would be well to abolish the right of choice as had been done in the case of children. As to trial by jury or by justices, he thought a juvenile court better fitted than a jury to try children and young persons. There would still be a few cases in which a child or a young person would be committed for trial for special reasons, and he proposed that when a court of assize or of quarter sessions was engaged in trying a juvenile there should be two members of the juvenile court panel on the bench in the capacity of assessors.

Another difficulty, Mr. Watson considered, was that of explaining to a juvenile his right to give evidence on oath or to make an unsworn statement. He thought the abolition of the oath for a juvenile defendant might be considered, the defendant being first asked if he wished to make a statement, and if he wished to do so being then asked if he would be willing to be questioned or not.

Psychiatry, he considered, was of assistance to the court in a number of cases, but he certainly did not recommend it for all. He would like to see it made available to all courts, and also to see more remand homes with facilities for psychological examination and report. There should be more psychiatrists available, but it would be a mistake to increase their number too rapidly, lest some with too little experience should be brought into this kind of work.

The treatment of offenders must include the element of deterrence. Punishment was sometimes necessary, and although there would be a constructive aim behind them, such methods of treatment as detention in a detention centre, or attendance at an attendance centre, were mainly deterrent. Absence of punishment might be an ideal, but in this imperfect world it was still necessary.

Mr. Watson referred to the English legal presumptions as to the age of responsibility for criminal offences, and the contrast with the position in some other countries. Many people wished to raise the age in this country. He was not going to commit himself in this lecture to any opinion, but he invited his hearers to think about this question.

Concluding a stimulating, as well as instructive lecture, containing many points worthy of thought and discussion, Mr. Watson said that we must never overlook one member of the team of workers who tried to help the child before the court. That person was the child himself. He must learn to adjust himself to his environment, and not in every case be removed from a difficult environment instead of being helped to stick it out. By his own efforts he might surmount his difficulties.

Insanity and Crime

Under the title of "A Note on Broadmoor Patients," Dr. R. M. Jackson contributes an instructive article to the *Cambridge Law Journal* which, though apparently intended mainly for students, can be read with profit and pleasure by those who are no longer students. Even laymen should be able to understand it, by reason of the ease and simplicity of the author's style. His lucid explanations make the subject easy of comprehension.

Looking at the law before the passing of the Criminal Justice Act, 1948, as well as subsequently, Dr. Jackson covers the whole field. During the war he was a Home Office official and acquired practical experience of the administrative side of the question to add to his legal knowledge. He is also a county magistrate.

The question of sanity or insanity in relation to a crime can arise at various stages and is dealt with under different statutes and by varying procedures. He sets out the different classes thus :

King's pleasure lunatics by verdict of a jury : (*a*) found insane on arraignment ; (*b*) found insane when produced for discharge for want of prosecution ; (*c*) found guilty but insane.

Secretary of State's lunatics, certified insane when in prison : (*d*) on remand ; (*e*) awaiting trial after committal by justices ; (*f*) after conviction but judgment respited ; (*g*) to serve a sentence ; (*h*) under sentence of death.

He proceeds to discuss these classes, pointing out that the judges have evolved a test of insanity which does not necessarily accord with the medical test applied when the Secretary of State is acting administratively. The tests and the purposes are distinct, and must be kept so, as long as we keep our present law.

Even after Broadmoor was established, the Home Secretary had power to choose between sending to Broadmoor or to a local authority asylum. Discharge, whether absolute or conditional, requires a warrant from the Home Secretary. What happens if a prisoner recovers his sanity is explained in the article, as is also the position of a lunatic whose sentence of imprisonment has expired. As to the prevailing idea that criminal lunatics are kept for life Dr. Jackson disposes of it as a myth. He observes, however : " The Home Secretary is responsible for public safety, and he must be somewhat cautious when those in his charge are potentially dangerous, and on occasion discharge must be delayed until the medical prognosis is more definite."

The article proceeds to call attention to administrative charges made by the Criminal Justice Act, 1948, including the charge of nomenclature which is not completely happy. " The new terminology may be more refined than the old, but it is equally misleading, for Broadmoor patients are not necessarily in Broadmoor."

The article concludes with a discussion of the new powers of magistrates under the Act of 1948, particularly that conferred by s. 24. Dr. Jackson puts the somewhat puzzling question whether an order under this section is upon conviction or acquittal, and arrives at the conclusion that probably it is neither the one nor the other.

Derby Children's Committee

The second report of the Children's Committee for the county borough of Derby covers the period from July 5, 1949, to November 30, 1950. It includes a considerable amount of statistical matter. The report makes the sound observation that " on a local as well as a national scale the collection of facts about children's work and the patient and critical examination of the facts is an invaluable aid in testing the techniques of the work. At present the examination and analysis of facts is still in a rudimentary stage, but each year it is hoped to extend the scope of our knowledge." Nearly half the number of children in care on November 30, 1950, were boarded out, which shows that the Children's Committee is doing its best to carry out the declared policy in relation to children dealt with under the Children Act, 1948. The committee is not satisfied however. The report states that the hope that a rapid increase in boarding out would be possible has not been realized owing to staff difficulties, and the reaction has been felt in the children's homes where overcrowding has prevented the creation of a more comfortable and homely atmosphere. It is realized that boarding out should be increased even if it involves some increase of staff.

As to the reasons necessitating the taking of children into care it appears that nearly half were received owing to the inability of a parent or guardian to care for the child, and of the balance by far the most frequent cause was lack of accommodation.

In addition to the children actually received into care, a considerably larger number were the subjects of applications but were not so received. Of 108 such applications involving 210 children, fourteen were refused as it was thought that the applicants could find their own solution. In a further thirty-three cases the applicants withdrew or failed to pursue their applications after their responsibilities were pointed out to them. In the majority of the remaining cases, advice or assistance was given in solving the problem without taking the children into the care of the council. This is important, because wherever possible the object should be to preserve and improve the family rather than to break normal relationships.

" A solution of the family problem within the family is undoubtedly good social practice, and the work of other bodies and departments of the council is a direct advantage to the committee in this connexion."

Another satisfactory feature of the report is the statement that discharges from care over the period bear a healthy relationship to admissions, and the proportion of children discharged to the care of parents remains about fifty *per cent.* of all discharges.

The Health of the Child in Care

The observations of the Committee upon the health of the children are of great importance and, in relation to mental health, a little disturbing, as showing how much the " deprived " child may be handicapped in spite of the best efforts on its behalf.

" Their physical health, which is carefully guarded, has reached a high standard. There has been no serious illness, apart from chicken pox and measles at times of epidemics, and few accidents or minor health disorders.

" A small number of children who are delicate and underweight have spent a period at the children's home at Skegness . . .

" In contrast to the high standard of physical health, mental and emotional disturbances and lack of adjustment to the environment either of a children's home or of a foster home, were common. These difficulties are inherent in the situation of children separated from their parents, most of them after a disturbed and unsatisfactory early infancy. The finest substitute for a good home and good natural parents can never quite restore to some children what they have lost, or the inheritance they ought to have had. Study of the individual child and wise and enlightened efforts to meet the child's needs is of greater importance than tackling administrative problems. Here indeed is the heart of the matter. Here is the motive to inspire committee members and all the body of workers trying to guide and mother children whose parents are incapable of doing their job."

Caravans as Furnished Houses

The Times of April 20 reported a case of application to the Divisional Court for an order of prohibition, to prevent a tribunal set up under the Furnished Houses (Rent Control) Act, 1946, from entertaining a reference to fix the rent of two furnished caravans. These had been placed in a field and were

let for £1 10*s.* and £2 a week respectively. The caravans had wheels and could be and were moved from time to time. It was contended that the caravans were not " houses " within the meaning of the Act, and that consequently the tribunal had no jurisdiction to fix rents for them. The tribunal did not accept this contention, but, very properly, granted an adjournment to allow the owner to move in the King's Bench Division for an order of prohibition. The Divisional Court refused to make an order, and sent the matter back to the tribunal for it to find facts relative to the terms of letting, on which the jurisdiction would turn. The Lord Chief Justice, in giving judgment, said that the Court did not know enough of the terms on which the caravans were hired and the case must go back for further consideration. The tribunal must consider not merely what was the position at the moment, but whether the caravans were let as chattels, which the occupiers could take out of the field if they desired to do so ; or whether the intention was that the occupiers were to live in the caravans in the field and nowhere else. If the latter, it might well be that the caravans must be regarded as buildings on the site, and that the Act would apply to them. *The Times* of May 5 reported the next stage, when the Guildford tribunal dealt with the matter in accordance with the directions of the Divisional Court, and, in the course of so doing, stated facts which appear sufficient to found its own jurisdiction and thereby preclude issue of an order of prohibition. As regards the mobility of the structures, the tribunal said one was in the form of a motor vehicle with chassis but no engine, and the other mounted on what appeared to be a farm waggon. The tribunal were of opinion that the caravans could, with difficulty, be towed about the field, but were not intended to be " ambulatory," and were not let as chattels. Neither tenant could assume a right to remove the caravans from the field and live in them elsewhere, and there was nothing to indicate that the lessor envisaged the tenants moving the caravans to any place to which the tenant might like to move them, instead of the field in which they were placed by the owner. The tribunal reduced the weekly rents from £1 10*s.* to 7*s.* 6*d.* and from £2 to 10*s.* respectively. So far as any point of law can be said to be involved, the result is satisfactory. As many a local authority knows, the line between the mobile and immobile, the " van " and the " shed or similar structure " of s. 9 of the Housing of the Working Classes Act, 1885 (as since re-enacted), is often very thin. Many, though not all, of the occupants of such structures are of a type needing every protection which the law can give them. It would have been unfortunate if the mere existence of wheels, upon a structure let furnished for occupation at a more or less fixed point, had been allowed to remove such a structure as a matter of law from the field of the Act of 1946.

Keeping Councillors Informed

At p. 313, *post*, we print a letter from the town clerk of Lincoln, referring to our note under this heading at p. 209, *ante*, where we spoke incidentally of steps open to a council which has fully delegated a power to one of its committees, when a member is dissatisfied with a decision reached by the committee. Our correspondent's letter turns upon a latent ambiguity, against which we thought we had guarded at p. 209, in words which our correspondent quotes in part. The verb " approve " can be used, as in ss. 46 and 47 of the Food and Drugs Act, 1938, with the meaning " ratify "; " disapprove " is, though less commonly, used in the converse sense. But it need not mean this. Where a committee has exercised a fully delegated power, approval (*i.e.*, ratification by the council) is not called for, and therefore " disapproval " can not undo what has been done by the committee—and this we said in terms. The council can, nevertheless, resolve that it disapproves of something which has been done. This has no immediate practical effect, but will guide the committee in interpreting the council's wishes for the future ; it is less extreme than withdrawing or modifying the delegation, but, if such a resolution is passed by the council, especially with a big majority, it is an indication to members of the committee that they may not be re-appointed. Our Note of the Week at p. 209 could have spoken of the process as a " vote of censure " on the committee, but we prefer to avoid introducing so heavy a linguistic weapon as " censure " into the local government vocabulary.

Cinderellas of Land Drainage

Extensive new land drainage powers for river boards are proposed in the report of a sub-committee of the Central Advisory Water Committee published towards the end of April, designed particularly to meet cases of the type we dealt with at 108 J.P.N. 623. The report also proposes a new source of revenue, from a drainage charge on agricultural land estimated to raise over £1 million *per annum*. The Minister of Agriculture and Fisheries is arranging discussions of the main proposals in the report with the interests concerned, before he reaches conclusions on policy. He has issued a warning that major issues are involved and early legislation cannot be expected.

The report opens by setting out the need to provide for: (*a*) control of watercourses for which no drainage authority is at present directly responsible ; (*b*) new sources of revenue ; (*c*) further financial assistance to river boards and other drainage authorities with limited local resources.

At present, river boards are responsible for the principal watercourse of their areas. Owners and occupiers are responsible for farm ditches. Outside internal drainage districts, however, no authority is directly responsible for the intermediate channels, estimated by the committee to average more than a thousand yards per mile of countryside. County and county borough councils have general powers, but they have proved inadequate. Many of these channels were improved under special war-time powers which have lapsed and there is no satisfactory provision for maintenance. As a result they are generally neglected. Food production is lost, and towns and villages are, from time to time, subject to flooding. The committee, in its discussions, referred to these channels as " Cinderella streams "—those occurring in the answer given by us, quoted at the outset of this article. Such streams, which are nobody's business in particular, are a vital link in the drainage of a highly farmed countryside. The fact that they were nobody's business has ruined many a rural economy from ancient times down to our own. To meet this position the committee would extend the works jurisdiction of river boards to all channels in their areas, large and small, apart from drains for which internal drainage boards would still be responsible, and farm ditches. County and county borough councils would lose their general powers. Owners and occupiers would be required to keep farm ditches in good condition and free from obstruction. Thus, for the first time in land drainage history, definite responsibility for works and maintenance would be arranged for every stream in England and Wales. River boards would have to decide for each channel where it ceased to be a farm ditch and became a watercourse, as different statutory provisions would apply. Witnesses who were asked to suggest a definition for a " farm ditch " found it difficult to put in words, but claimed to know a ditch when they saw one. The committee therefore sets out certain practical tests for deciding the issue in individual cases.

River boards draw their revenue from county and county borough councils and internal drainage boards. Farm land outside internal drainage districts does not contribute. But such

land often benefits from river board work, and the run-off from higher lands creates many problems for internal drainage boards. With this in mind, and since river boards will incur additional expenses on minor watercourses for works which will chiefly benefit agricultural land, the committee proposes a new drainage charge. It would be levied on net sch. A values on all land outside internal drainage districts that is not subject to local rates. The rate would be uniform within each river board area, but would be higher in areas where the local authority precept is high and correspondingly lower elsewhere. It would average about 1s. in the £ of net annual value. As a corollary, the committee proposes that farming interests should be directly represented on river boards. The committee claims that this new charge is justifiable in itself, that it will enable river boards to assume their wider functions, and that, in areas where rateable value is low, or heavy contributions are required from internal drainage boards, it will strengthen the river board's general finances. Since a decision on these financial proposals must be reached before the rest of the report is considered in detail, the Minister is inviting the associations representing local authorities, river boards, internal drainage boards, and farmers and landowners, to consider the proposals urgently, so that early discussions can be held.

As always in these days, the report makes some proposals for Exchequer grants in special cases, when a river board's resources do not match the need for works within its area. The later chapters contain numerous suggestions as to byelaw powers, drainage rates, etc. The committee recommends that river boards should continue to maintain sea defences necessary for land drainage purposes and bear a proportion of the cost. The local flooding which may be caused by sewage and storm water, discharged from new towns and large housing estates, is also discussed, and proposals are made for contributions from the developers towards the cost of remedying such flooding.

JUSTICES AND MOTORING OFFENDERS

By F. G. HAILS

The writings of Sir Leo Page on criminal matters, particularly in their relation to magistrates' courts, are justly respected for their care and common sense. His article on Justices and Motoring Offences (115 J.P.N. 226) must give all who have the well being of the magisterial system food for thought, and the present writer agrees whole-heartedly that many benches shirk, or seem to shirk, the responsibility of proper punishment in these matters: it remains to be seen whether the recent pronouncements, at magistrates' conferences, of the Lord Chief Justice, will have the desired effect of arousing magistrates to a sense of duty in this respect, but at the same time there are various matters which must be considered before the magistracy is condemned.

In the first place, the motoring offender is not, in the eyes of the layman, whether he be magistrate, juryman, or citizen who has not filled either of those functions, a criminal deserving of social censure : there are exceptions, for the offence of driving or being in charge of a motor vehicle under the influence of drink or drug falls under the social ban, as does manslaughter, and failing to stop after an accident. For the rest, however, public opinion still looks upon the dangerous driver as the victim of ill-luck rather than the enemy of society, and even some police officers profess to find it not easy of understanding that a thief should be more likely to be placed upon probation than the man of irreproachable character who is convicted following a piece of bad driving. Sir Leo points out that it is of little comfort to the parent of a maimed child to be told that the driver responsible is a respected and established business man, but it is probably equally fruitless to tell the victim of a rape or an indecent assault that her assailant is a schizophrenic. This, however, is a digression : the point is that so long as the magistracy is drawn from the population it is bound to be of the views of the population. As yet there is no general awakening to the gravity of the situation on our roads, in spite of efforts of various bodies to inculcate a sense of the urgency of the problem. It will, we think, be found that in areas where road accidents are frequent, and casualties high, and prosecutions a day to day occurrence in the magistrates' courts, penalties tend to be heavier than those in districts where traffic is light. Magistrates who have to deal constantly with traffic offences of a serious nature do become aware of the social evil of driving in such a manner as to break the law, and it is to be hoped that the Home Secretary might decide to send to all justices, by circular, at least the relevant parts of addresses given to local conferences by high judicial authority.

It is only by education of a balanced and temperate kind that the public, and in particular that small section of the public which composes the magistracy, can be brought to a realization of the weight of the problem, but meanwhile there are other matters which militate against such realization. In the first place, the Road Traffic Acts might be the better for some slight amendment, for when a justice learns that the offence of dangerous driving carries, on indictment, the maximum penalty, apart from disqualification, of two years' imprisonment and a fine, whilst the offence of driving under the influence of drink or a drug cannot be visited by more than six months and a fine, he begins to wonder where he stands, for he is apt, as a man in the street, to regard the latter offence as the more serious of the two. We will return to the Road Traffic Acts later, but will at present content ourselves with remarking that this seeming discrepancy might be considered by the reformers.

The next point we wish to make is that the police themselves can hardly be said to have brought to the road traffic problem the same efficiency as they show in what they call "crime." As a first example of this we would point out that although driving in a manner dangerous to the public is an indictable offence punishable with two years' imprisonment, it is not, or at any rate has not been until recently, recorded at the Criminal Record Office at Scotland Yard. Thus, if a motorist is convicted on indictment of the offence, and has had since the age of seventeen two or three convictions for the same offence summarily, he may, subject to the age limits laid down, become liable to corrective training or preventive detention, under the Criminal Justice Act, 1948, s. 21. If his licence has become free of endorsements by virtue of the Road Traffic Act, 1930, s. 8 (5), and if he has changed his address he stands a very good chance of his earlier convictions escaping the notice of the prosecution.

This is but one symptom of the attitude of the police towards motoring offences. It will not have escaped the notice of those whose work lies in magistrates' courts that the more serious motoring offences are usually defended, frequently at the expense of the insurance company potentially liable under a policy of

third party insurance. These defences are conducted ably and vigorously by advocates who specialize in this class of work. As a rule an experienced solicitor is selected, and these men are amongst the most capable advocates, as a class, practising before the courts today : if a barrister is instructed an able young man with his name to make is briefed, with the result that the charge is reduced, dismissed, or at the least successfully played down. Although the police are well aware of the likelihood of these tenacious defences, it is comparatively rare for them to be represented, the prosecution being left in the hands of a superintendent or an inspector who has laid the information, and who is invariably completely out-generalled by the defence. Serious motoring offences call for prosecution by skilled advocates, and yet the chief constable who will ask his paying authority to spend thousands of pounds on the purchase of patrol cars, and on their maintenance and running, will leave prosecutions in the hands of a man who, with all his excellences and with all his training is not, and never will be, an advocate. Surely here those " motives of economy or of vanity " referred to in the Roche Report should have no place.

There is yet another unaccountable manner in which the police do not give magistrates the assistance which might be expected, and that is with regard to plans of the scene of the alleged offence. There can be few forces today which have not at least one officer capable of preparing such plans, which can be certified under the provision of the Criminal Justice Act, 1948, s. 41 (1), whilst a sheet of the Ordnance Survey, on a sufficient scale, would be an alternative. A plan can be of the greatest assistance to a court in any case in which an allegation of criminal driving is concerned.

The next question is the lack of full use of the statutory machinery : in the Road Traffic Act, 1930, ss. 11, and 12, as amended by the Road Traffic Act, 1934, ss. 34 and 35, to say nothing of s. 15 of the Act of 1930, weapons against the criminal driver of unusual flexibility were forged by the legislature, and put into the hands of the police, who have failed to use them to the fullest extent. A motorist who exceeds the speed limit in a built up area in very many instances is also guilty of driving without reasonable consideration for other road users : the monetary penalties are exactly the same, and yet it is seldom that the offence under s. 12 is preferred, and indeed, it is probable that the neglect of s. 12 in the years following the passing of the Act of 1930 forced the legislature to re-introduce the speed limit. There are comparatively few decisions, of the Divisional Court on this section, yet it may be usefully recalled that to allow oneself to be overtaken by sleep at the wheel is at least driving without due care and attention : *Kay* v. *Butterworth* (1945) 110 J.P. 75. The Divisional Court has shown itself ready to intervene if justices do not convict in a clear case of driving at a speed dangerous to the public : *Bracegirdle* v. *Oxley* [1947] 1 All E.R. 126, and if magistrates are failing to convict this case should point the remedy, for its principles surely apply to any case whatever its nature. Let us say that failure to conform to a traffic sign is also often driving without due care and attention, if not dangerous driving : the first offence carries no power of suspension, no matter how many times it is repeated : yet it is seldom that either of the offences carrying this power is preferred where a traffic sign is ignored unless an accident results.

But it is not in this preference for the easy way that the greatest neglect of the weapons is shown : it is in the persistent refusal of prosecutors to regard the offences of dangerous and drunken driving as anything more than summary offences, although the power to ask for an indictment has existed as long as the charges themselves in their present form. The Criminal Justice Act, 1948, s. 28, has codified the procedure for the determination of venue, and it is now the common, if not the universal, practice in cases under ss. 11 and 15 of the Act of 1930 for the informant to make representations at the outset under s. 28 (1) of the Act of 1948, for summary trial. Now, although the bench have the power to revert to hearing as for an indictable offence, under s. 28 (6), at any time up to the close of the case for the prosecution, if the facts do not warrant this course and the case is concluded before them summarily, they have lost the power to commit for sentence under s. 29 of the Act of 1948 : *R.* v. *South Greenhoe JJ. Ex parte Director of Public Prosecutions* [1950] 2 All E.R. 42. It is submitted that prosecutors should be chary of asking for summary trial under s. 28 (1), and that they, as well as magistrates, should bear in mind the observations of Lord Goddard, C.J., in *R.* v. *Middlesex G. S. and another. Ex parte Director of Public Prosecutions* [1950] 1 All E.R. 916, where he called magistrates' attention to the fact that because they had a power to hear summarily it did not follow that it should be used, and expressed surprise that the prosecutor should have made representations in that particular case. It is submitted that the more serious motoring offences should not be regarded as primarily suited for summary trial : justices should insist upon knowing a good deal of the facts before according the defendant the choice under the Summary Jurisdiction Act, 1879, where s. 17 applies as well as s. 28 of the Act of 1948, and informants might well call the tune by refusing, save in cases where clearly even if the offence is committed the circumstances will call for a light penalty, to take the easy way.

Let us take an example. At a recent case at Assize Oliver, J., gave short shrift to a charge of manslaughter preferred against a motorist whose victim died after he had been convicted of dangerous driving by a magistrates' court, but undoubtedly there are cases of dangerous driving which, if death results, will justify the more serious charge. If death has ensued, or is likely, it is suggested that it is utterly wrong for the prosecution to ask for a charge of dangerous driving to be dealt with summarily save in most exceptional circumstances. They should, if they are not prepared themselves to prefer a charge of manslaughter, let the case proceed as for hearing on indictment. If representations are made under the Criminal Justice Act, 1948, s. 28 (2), when something is known by the bench of the facts, the bench can either decide on summary hearing of the charge of dangerous driving or commit for trial on that charge, or, if evidence is available of cause of death, and the facts justify it, for manslaughter. The jury can in the latter event convict either of manslaughter of or dangerous driving : Road Traffic Act, 1934, s. 34. If the magistrates decide on summary hearing they can either convict of dangerous driving, or dismiss the case altogether, or dismiss the charge under s. 11 of the Act of 1930, and direct the preferment of one under s. 12 : Road Traffic Act, 1934, s. 35. This procedure lays on the justices the duty envisaged by the Indictable Offences Act, 1848, that they should act as examining justices and decide what offence, if any, lies on indictment, with the added power of reaching a summary decision if it is warranted. There are police forces and benches in the country who have adopted this procedure, but it is submitted that it should be more widespread.

To sum up : magistrates must educate themselves to the extent of the social evil caused by motoring crimes. The police should treat such crimes as crimes causing greater loss of life than murder, more and more serious bodily injury than crimes of violence, and greater loss of property and hardship than larceny. Perhaps it would not be amiss to conclude by saying that the example of the Oxfordshire constabulary in concentrating on driving likely to lead to accidents, whether the patrol be in uniform or plain clothes, is to be emulated, but it should be backed up by efficient prosecution, and the law enforced by punishment merited by the crime.

LOCAL REGISTER OF PLUMBERS

Water companies and water boards, and local authorities supplying water under special Acts, made several efforts years ago to obtain statutory power for preventing persons not included in a list of "authorized" or "registered" plumbers from doing work upon connexions required by consumers, and even on consumers' own fittings. It is possible that here and there such a prohibition may lawfully exist, for it would be unsafe to say of any restriction upon freedom to carry on business, or otherwise to please one's self, that it does not occur somewhere in local legislation. But, so far as we have been able to find, the prohibition has in all local legislation Bills since the session of 1910 been disallowed by the parliamentary committees, if not withdrawn by the promoters. The reason against it can be shortly stated as being that the Waterworks Clauses Act, 1847 and 1863, where in force by incorporation in special Acts, the Public Health Act, 1936, and the Water Act, 1945 (replacing the Clauses Acts for purposes of the general law) already give wide powers for safeguarding water supplies and that, even if a case exists for national registration of plumbers (which is quite a different proposition) there is no justification for local registers maintained by separate local authorities.

This being the position in regard to legal prohibition of plumbing work by persons not authorized by the body which supplies the water, we have been surprised to have our attention drawn to instances where local authorities have attempted to produce the result without any legal basis—sometimes by persuading local plumbing firms whom they approve to enter their names in a (voluntary) register; sometimes by publishing this register, with the implication that firms not upon the register are unreliable; sometimes, and worst of all, by a circular to consumers or to householders informing them more or less explicitly that plumbers not upon the register ought not, sometimes even must not, be employed. In one borough the local authority's warning to a householder, against employing a plumber because the plumber was not on the council's register, nothing else against him being alleged, was in terms which would have given ground for a libel action: more often, the local authority, even when issuing such a circular, is cautious enough not to run the risk of being called to account by an individual tradesman, but seeks to produce the effect it desires, of a closed list, by a general innuendo upon plumbers who have not been listed.

We have just spoken of local authorities (not companies or water boards) because the information before us at the moment concerns local authorities proceeding under the Public Health Act, 1936, and other provisions of the general law. It is, moreover, with their action as water undertakers that we are concerned in this article. A local authority is as much entitled as a private owner of property to pick and choose the tradesmen it will patronize when it wants an extra water-closet in the town hall, or new washers for scullery taps upon its housing estate—subject always to the requirement, not appropriate to the private owner, of having to get competitive tenders if the work falls within s. 266 (2) of the Local Government Act, 1933. Incidentally, and apart from what is the main purpose of this article, it may be remarked that routine maintenance of water fittings on a local authority's property is, by reason of the opportunities it offers for petty graft, if orders are given for small jobs when required, a type of work which, except in so far as it is done by the local authority's permanent workmen, should wherever possible be carried out by contract, covering substantial blocks of work and substantial periods, and should not be excluded by standing order from the obligation to obtain competitive tenders by public advertisement. But whatever the local authority does with its own property it is not, as water undertaker, entitled to enforce plumbers of its own choosing upon its consumers. A method sometimes adopted, according to a letter we have before us from a leading firm of solicitors (who, in advising a local authority which had an unqualified clerk, wrote supporting the practice) has been to formulate a book of "rules" and circulate this to plumbers, and we suppose to householders who might be supposed to have need to see it, purporting to state in advance "conditions" on which the local authority would consent to the making of an attachment under s. 68 in sch. 3 to the Water Act, 1945. One of these so-called "rules," in the case before us (which the local authority's solicitors attempted to defend, and by inference suggested was in their experience commonly sought to be applied by other local authorities) was that a plumber not upon the local authority's register would not receive consent under s. 68. The solicitors' letter to their clients (of which a copy was made available to a trade association acting for an aggrieved plumber, through whose legal adviser it came into our hands) is so remarkable a piece of special pleading that we think it should be quoted. "That stipulation alone" (they say, referring to the requirement of "consent" in s. 68) "might be read as meaning nothing more than that the undertakers were entitled to be notified in advance, to secure their right to increased payment whenever an increased supply was taken. The section goes on, however, to say that if any person acts in contravention of this provision he shall be liable to a penalty not exceeding £5, without prejudice to the right of the undertakers to recover as a civil debt the amount of any damage sustained by them and without prejudice to their right to recover the value of any water wasted, misused, or unduly consumed. This clearly indicates that the intention of the section was to ensure that incompetent workmen did not meddle with the undertaker's pipes. The existence of the section would certainly appear to give the district council the right to refuse permission to an incompetent person to work on their pipes. Such right of refusal indicates that it would be reasonable to publish in advance a statement of what persons the council is likely to consider competent, and what persons it is likely to consider incompetent. If the line is taken by the council that it is entitled to inquire into the competence of the workmen proposing to do work involving interference with the council's pipes, or other pipes receiving the council's water, then it appears to be in order for the council to say that, whether or not they publish regulations, they are still entitled to refuse permission to a particular man if they so wish. The practice of keeping a register appears, like the publication of regulations, to be one of convenience and, whether or not the council in fact maintain one and abide by it, they appear to be entitled to exercise discrimination between one man and another under the general powers conferred on water undertakings. We think the council should reply to the complainant that they claim authority to control workmanship under s. 68 of the schedule to the Act of 1945."

It is an added feature of interest that in that case the book of "rules" or "regulations" issued by the council had been adopted by them under seal, and got up generally to look much like byelaws for the prevention of waste, undue consumption, misuse, or contamination of water, which they would have had power to make under s. 132 of the Public Health Act, 1936, and the Water Act, 1945. The council's surveyor, indeed, in writing to the trade association which had taken the matter up, at an earlier stage than that at which legal advisers came into it on both sides, had spoken of the council's "duty" to enforce these

" rules." One peculiarly objectionable provision of the " rules " was a clause warning plumbers that any bad workmanship, or any executing of work without the council's consent, would be punished by removal from the council's register—and it was an attempt by the surveyor to prevent work by a plumber whom they had purported so to remove, as a punishment for his having carried out urgent work on a previous occasion without waiting for their consent, that brought their practice into the open. Since s. 68 carries an *ad hoc* penalty, there can be no warrant for supposing that breach of its provisions in one case would justify a local authority in refusing to allow a plumber to carry out a different job on a future occasion : still less can any warrant be found for the suggestion by the council's solicitors, that a man could be permanently blacklisted as a punishment for not obtaining consent in advance to doing work—or even, indeed, because he had on one occasion done work badly. We have, indeed, much doubt whether the section even empowers a local authority to refuse consent to a consumer's having work executed by a particular workman or firm. It is just possible that the section might be held to confer this power but, putting the local authority's right thereunder at its highest, it seems plain that they must consider each case specifically on its merits, and that they cannot effectively intimate to consumers in advance that particular firms or workmen are not to be employed. In the case mentioned earlier in this article, where a town council had, on advice from their water engineer, published to consumers a statement about a certain plumber which looked like leading to a libel action, they withdrew the statement on advice from the town clerk as soon as he was made aware of what they had been doing : *cp. Slack* v. *Barr* (1918) 82 J.P. 91. In the case in which a district council's solicitors wrote the letter from which we have quoted above, the trade association acting for the plumber intimated, on the advice of counsel, that they would proceed under Ord. 25, r. 5 for a declaration that the local authority's action had been illegal. The council thereupon capitulated, and indeed did the right thing by withdrawing their purported " rules " from circulation. But the " rules " were said by the council's solicitors to have been issued in the first place on the advice, not merely of the council's own officials but of a firm of consultant water engineers, so we fear that it may be only too true (as those solicitors alleged) that similar practices are not uncommon.

We feel it, therefore, to be right to say that the attempt by local authorities who are water undertakers to oblige consumers to employ those tradesmen only whom the local authority approves is in our opinion entirely wrong. Parliament for more than forty years (at least) has emphatically refused to allow local authorities and water companies, who were promoting special Acts, to have power for the registration of plumbers. Under the general law there is no such power, and if any local Acts have given it they were passed many years ago. No local authority unless specifically empowered by Parliament has any right to prohibit a tradesman from carrying on his trade, by way of punishing him for an offence which they say he has committed, or by way of precaution lest he should do bad work. The purported formation of a register of plumbers, with an intimation to the plumbing trade and to water consumers that none but registered plumbers may do work on water fittings, is thus directly contrary to repeated and considered decisions by Parliament.

LOCAL GOVERNMENT IN OTHER LANDS

[CONTRIBUTED]

(*Concluded from p. 295 ante*)

In the first part of this article some account was given of the local government in the United States of America and Canada from the week-end course recently held at Ashridge College, Hertfordshire.

THE FRENCH SYSTEM

The transition from Canada to France is not so abrupt when the large French speaking community of Canada is considered, though the French Canadians take their origin from a period of pre-revolutionary France. The graphic picture of post war France, drawn by M. Virin, D.Litt., was one of strenuous efforts to rebuild the local government structure after the disruption of the war and the occupation. Through all such disturbances, the commune has retained much of its independence which has been jealously guarded since Norman times. The Maire is elected by the municipal council, normally for six years ; he is paid and he appoints the Secretaire de maire (town clerk). In recent decades there has been in practice continuity of office for the town clerk. An interesting side-light on the traditional association of learning with administration is the survival of the practice in France that in the commune with a population of less than 2,000 the school master is the secretaire de maire. The commune has by law of 1882 certain specific duties such as the provision and maintenance of schools and school houses. The Prefect of the Department exercises limited control over the commune, for he can suspend the municipal council for a month and he is required by law to approve the budget.

THE DEPARTMENTS

Perhaps the most distinctive feature of the French system is the ninety departments which when originally determined divided France into convenient and approximately similar areas of administration. In each department is found the Conseil Generale—rather similar to the County Council—elected by all citizens over twenty-one years of age. The most important officer in the department is the Prefect, who derives much of his status from the centralizing period of Louis XIV and Napoleon ; he is a senior civil servant appointed by the Minister of the Interior, but within his department he represents all the central government ministries with which he may correspond direct.

Regarded by the French as a safeguard for the citizen, but viewed with some suspicion by those in England who have been nurtured on the works of Professor Dicey, the conseil de prefecture and the conseil d'etat provide a legal means whereby the acts of the executive can be questioned. A significant commentary on the change which improved communications have made in the ninety departments is the reduction of the conseil de prefecture from one in each of the ninety departments to only twenty-two in all. The views of the lecturer on the advantages of the administrative tribunals were of particular interest to students of public administration specially as they came from a Frenchman who has had opportunities to study the systems prevailing in other countries.

LOCAL GOVERNMENT IN DENMARK

The course was fortunate also to include a well documented paper from M. Vagn H. Fenger, M.Sc., the representative in England of the Danish Society. It was made clear that the population of Denmark is now distributed, one quarter in the Capital, one quarter in the 130 municipal boroughs and the remaining half in the rural districts. Apart from greater Copenhagen with its population of 920,000. the organization of Danish Local Government under the general supervision of the Ministry of Internal Affairs (Indenrigsministeriet), falls into two groups, firstly the 130 municipal boroughs with an average population of 7,800 and in the second place the twenty-eight Administrative counties (Amt) with an average population of 74,900. As in France, the smallest local government unit, the parish, has retained an independent position. There are some 1,304 parishes with an average population of 1,604 persons in the twenty-eight counties of Denmark. The county has general supervisory powers over the parish and must approve a budget increase of more than twenty-five *per cent.* or expenditure involving the raising of a loan. In the Danish municipal boroughs the local government functions are very similar to those in England, and are exercised through four committees, finance, schools, roads and social, each with three to five members. Joint undertakings with other local authorities are quite common and these require the approval of the County for their establishment and dissolution. An interesting point is that the Chairman of a Parish Council and certain other office holders can be elected without the necessity for the candidate's consent to the nomination although no person can be required to serve longer than four years against his will.

The complete absence of any regional local offices of the central department is a significant feature. Work such as that carried out by the Ministry of Labour in this country is done by local authorities who bear the total cost of all elections and registration and derive much of their income from the local collection of income tax, the proportion being seventy-five *per cent.* in the Municipal boroughs. This means that most functions are in the hands of the local authorities. Even the County councils (Amt) exercise far less influence than their counterpart in the U.K. The chairman is a civil servant appointed by the King, and occupies a position somewhat similar to the prefect in France. In general it may be said that in Denmark government is more essentially local than in other countries considered at the conference.

LOCAL ADMINISTRATION IN THE BRITISH CARRIBEAN

In contrast to the well-developed institutions in Denmark, a paper on local administration and community development in the British Carribean, by Mr. Rawle Farley, B.A., B.Sc., outlined the hard realities of the communities stretching for 3,000 miles in an arc of islands from British Honduras to British Guiana (a distance equivalent to the journey from the United Kingdom to Turkey). He drew upon his first hand knowledge to emphasize that the area contained members of every race and creed. Against the historical background of slavery and its terrible heritage must be put the problem of over population and poverty, the unemployment standing at eighteen *per cent.* in Jamaica at the height of the post-war boom and the serious effect of the fluctuation of world prices of sugar, which is the principal crop.

The Colonial Development and Welfare Organization in their study of local and central government in the area have drawn attention to certain primary objectives including the needs for balanced development of town and country, the rehabilitation of rural areas and a firm policy for land settlement to end the eternal conflict between the large plantation and the smallholder.

The lecturer illustrated the functional organization of local government from British Guiana. Outside the large towns of Georgetown and New Amsterdam the coastal plain is divided into five districts each under a District Commissioner, who are now all West Indians, who exercise a maximum of supervision over and a minimum of interference with the activities of the village and country districts. It was interesting to note that the local authorities are elected by all men and women over twenty-one years. The rudiments of most local government services known in Western Europe are existing in the Carribean but the general conclusion was drawn that before any spectacular advances can be expected economic aid is required in the region so that a more balanced industrial and agricultural structure may be established. Some hopes for this are entertained in the proposal for a Federated Carribean.

CONCLUSION

Such then are a few of the facts and conclusions emerging from a very profitable week-end spent by some 130 local government councillors and officers at Ashridge College; not least important was the opportunity to discuss with the lecturers and other students the questions arising from the papers, in the spacious ante-rooms of the mansion which has been dedicated to the service of an educated democracy. The course was organized by the Metropolitan District Committee of the National Association of Local Government Officers. It was the fourth such course to be held by the committee at Ashridge and is now anticipated as a regular annual event, to deal with special aspects of public administration each year.

R.N.H.

NEW COMMISSIONS

LEEDS BOROUGH

Mrs. Alice Bissell, 35, Cockshott Lane, Leeds, 12.
Mrs. Jeanne Suzanne Anne Marie Brookes, 75, Commercial Road, Kirkstall, Leeds, 5.
John William Durham, 2, Ledsham Terrace, Leeds, 10.
Eric Howard Fox, 45, Weetwood Lane, Leeds, 6.
Walter Gahan, 67, Gipton Wood Road, Leeds, 8.
John Huddleston, Heathfield Cottage, Heathfield Terrace, Leeds, 6.
William Douglas Marshall Nicholson, Ashenden, Grove Lane, Leeds, 6.
Gilbert Parr, B.E.M., Moor Top Post Office, Leeds, 12.
Ronald Snowden Schofield, 60, Shadwell Lane, Leeds.
Miss Winifred Wallace, 1, Moorland Crescent, Leeds.

NEWBURY BOROUGH

Oliver Stephen Brown, Heatherbrae, 192, Andover Road, Newbury.

NEWCASTLE-UNDER-LYME BOROUGH

Bernard John Devaney, St. Marys, Sutherland Drive, Newcastle, Staffs.
George Firmin Kemp, 27, Pilkington Avenue, Newcastle, Staffs.

PLYMOUTH BOROUGH

Courtney Ashworth Ham, 23, Home Park Avenue, Peverell, Plymouth.
Francis de Mouilpied Lawson, Tobo, Elburton, Plymouth.
Mrs. Beatrice Ida Leest, 22, Compton Park Villas Road, Plymouth.
Gordon Greenslade Pooley, 26, Hartley Park Gardens, Plymouth.
Cyril Seymour Coode Prance, 38, Vapron Road, Plymouth.
William Hamilton Jollow Priest, O.B.E., Willowin, Russell Avenue, Plymouth.
Mrs. Elspeth Sitters, Machakos, 32, Torr Road, Hartley, Plymouth.
John Digory Sleeman, Denmark, Tamerton Foliot, Plymouth.
Frederick John Stott, 30, Hanover Road, Laira, Plymouth.
Mrs. Winifred Beatrice Mary Syms, 3, Wolseley Road, St. Budeaux, Plymouth.
George John Wingett, 61, Budshead Road, Higher St. Budeaux, Plymouth.

CHIEF CONSTABLES' ANNUAL REPORTS, 1950

(*Concluded from p. 277, ante*)

16. MIDDLESBROUGH

The population is 143,400 and the area 7,131 acres. Authorized strength is 222 and at the end of the year there were fifty-two vacancies. Applications were received from 111 persons and eleven were selected. Seventy were below either the education or physical standard. "Generally," says the report, "the applicants have been a poor sample, both educationally and physically . . ." During the year fourteen men left the force, seven on pension.

Criminal offences recorded numbered 1,550, in 1949 there were 1,409; the percentage of detections was seventy. The value of stolen property was £9,252 and recovered £2,482, compared with £9,698 and £3,034 the year before. Indictable offences were committed by 476 juveniles, against 431 in 1949.

There are 177 licensed premises and fifty-three registered clubs with a membership of 35,188. Charges of drunkenness involved 742 men and forty-three women, an increase of 127; the average for the past ten years is 391.

Road accidents caused injuries to 278 people and fourteen were killed in addition; last year the fatality rate was the same, but the injured totalled 216.

17. WALSALL

The area is 8,777 acres and population 103,059. Authorized strength is 153 and at the end of the year there were twenty-three vacancies. Fifteen civilians are engaged with the force. Applicants numbered 106 and twenty-one were selected. Wastage due to retirement on pension and resignations amounted to eleven: "Several of the men who resigned had over eighteen months' service and they left to go into industry, where, apparently, they were able to earn a great deal more money . . ."

Indictable offences totalled 1,048 against 1,090 the year before; fifty *per cent.* of these were detected. Stolen property was valued at £8,030 and that recovered £3,245. In 1939 the figures were £1,284 and £324, and last year £11,861 and £6,696. Juveniles dealt with numbered 137 compared with 147 in 1949.

There are 229 licensed premises and fifty-six registered clubs with 25,742 members. Drunkenness rose to 120 cases, fifty-four more than last year.

Road accidents caused eighteen deaths and injuries to 491 people. The total number of street accidents was 770.

18. BOURNEMOUTH

The population is 139,120 and the area 11,627 acres. Authorized strength is 205 and the actual at the end of the year 196. Seventeen applicants were appointed and 171 others rejected, in addition eleven applications were received from men in other forces to transfer, one was accepted. Fourteen left the force, four to go on pension. Twenty-two civilians are employed as telephone operators, clerks, cleaners and canteen assistants.

Houses and married quarters owned by the police authority number sixty-five and a further thirty-two are rented; also sixteen prefabricated bungalows and four permanent type houses on estates are allocated for police accommodation.

Indictable offences reported totalled 1,630 against 2,033 the year before; 181 of the complaints after inquiry did not disclose an offence. Stolen property was valued at £34,588 and recovered £5,593, compared with £43,833 and £7,632 in 1949. Fifty-seven juveniles were dealt with for crimes against ninety-nine in the previous year.

Road accidents numbered 1,145; there were ten fatalities and 641 people injured. In 1949 fourteen people were killed.

There are 155 premises licensed for the sale of intoxicants; twenty-five men and one woman were charged with drunkenness. Two persons were convicted for driving whilst under the influence of drink. Fifty-seven clubs are registered with a membership of 27,608 at the end of the year.

19. TYNEMOUTH

The acreage of the borough is 4,684 and the population 65,919. Authorized establishment is 107, including two policewomen, and the actual number at the end of the year 105. There are 138 special constables.

Indictable offences totalled 624 compared with 578 in 1949; ninety-three juveniles were dealt with for crimes against 135 last year.

There were 517 road accidents which resulted in ten fatalities and 238 people injured.

Licensed premises number 148 and there are tweny-nine registered clubs with 9,605 members. Charges of drunkenness were made against 137 men and twenty-seven women, an increase of forty-three on the 1949 figure. There were five convictions for driving whilst under the influence of drink.

20. LEICESTERSHIRE

The area of the county is 515,408 acres and the population 283,917. Home Office strength is 363, and the actual 356 including six policewomen. There were 174 applications to join the force and seventy-five were appointed. Special constabulary establishment is 750 and there were at the end of the year 671 members. Thirteen men left the regular force, six to go on pension. Forty-six civilians are employed with the force.

Indictable offences recorded were 2,332 and those detected 1,211. Juveniles dealt with for crime numbered 314 against 406 in 1949.

Road accidents totalled 3,072 compared with 3,380 the year before, these caused thirty-three deaths and 1,419 people injured; during 1949 there were thirty-nine deaths and 1,185 injured.

Houses owned and rented aggregate 252. During the year the Standing Joint Committee agreed to a long term programme for the building of 164 houses.

There are 944 licensed premises. Charges of drunkenness numbered fifty compared with thirty-six in 1949.

TO A CORPULENT COUNSEL

Broad of shoulder, broad of mind,
Broad in front and broad behind,
Broad above and broad below—
In fact the broadest man I know.

Your size, my learned friend, is due
To nothing special done by you,
But as is oft a favourite's fate
You just attract the extra weight.

J.P.C.

WEEKLY NOTES OF CASES

COURT OF CRIMINAL APPEAL

(Before Cassels, Byrne and Streatfeild, JJ.)

May 7, 1951

R. *v.* LUMSDEN

Criminal Law—Being found by night in building—Prisoner not found inside building—Prisoner seen running at full speed from open doorway—Larceny Act, 1916 (6 *and* 7 *Geo.* 5, *c.* 50), *s.* 28 (4).

APPEAL against conviction.

The appellant was convicted at the County of London Sessions of being found by night in a building with intent to steal, contrary to s. 28 (4) of the Larceny Act, 1916, and was sentenced to six months' imprisonment. On January 10, 1951, at about midnight, two police officers saw the appellant cross a road, walk into an alley by the side of a cinema theatre, and enter the doorway of one of the side exits which was in a slight recess. They saw a light appear inside the cinema, and when they reached the exit doors they found both open. They searched for the appellant inside the cinema, but did not find him, and so they resumed their observation in the alley. Soon afterwards one of them saw him running at full speed from the open doorway, and they chased and caught him. The appellant denied that he had been in the cinema.

Held, that, if a person was to be convicted of an offence under s. 28 (4) there must be clear and unmistakable evidence that he had been found in the building; there was no such evidence in the present case; and, therefore, the conviction must be quashed.

Counsel: for the appellant, *J. C. Stewart*; for the Crown, *J. Hutchinson*.

Solicitors: *Hawker & Wheatley*; *Solicitor for Metropolitan Police*.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

MISCELLANEOUS INFORMATION

NATIONAL INSURANCE

The First Interim Report by the Government Actuary on the National Insurance Act, 1946, which was published recently, relates to the period July 5, 1948, to March 31, 1950. Some 25 million persons were registered at the beginning of the new scheme, of whom over a million were married women who had left employment but were still technically insured under the National Health Insurance scheme in approved societies, although they had no intention of continuing in employment. Of the remainder about 21½ millions were persons who were already insured under the schemes of health and pensions insurance and the balance of 2¼ millions were persons not in insurance when the scheme started.

The new scheme inherited assets of about £900 millions from the funds of the old schemes, of which nearly £550 millions had been accumulated in the unemployment funds as the result of the very light unemployment experienced both during and since the war. The balance increased still further by some £224 millions during the first twenty-one months of the new scheme due mainly to "full employment." This resulted in a direct saving of £138 millions on unemployment benefit and in extra receipts of contributions amounting to £45 million. The contribution receipts, together with the exchequer supplements, were about £58 million more than expected.

One matter to which special attention is given in the report is the preponderating part which the cost of retirement pensions is playing in the finances of the scheme. Even in the original estimates, the expenditure on retirement pensions was about one-half of the total expenditure. Now, when the actual payments for unemployment benefit are on a much lower basis level than was anticipated, retirement pensions already account for nearly two-thirds of the total outgo on benefits and administration. Moreover, whilst the cost of the other benefits may be expected to remain more or less stationary in future years, the cost of retirement pensions is likely to be doubled in the next thirty years, mainly as a result of the increase in the aged population entitled to benefit. On the other hand, the annual contribution income from insured persons and employers will probably be no greater in thirty years time than it is now, even if full employment is maintained. The introduction of the new scheme did not result immediately in any great change in the numbers of old age pensions in payment, since persons who had been pensioned under the superseded Contributory Pensions and Special Voluntary Contributors' scheme had their pensions automatically continued, whilst no pensions can arise for ten years in respect of persons becoming insured for the first time under the new scheme.

A number of important changes, most of which are of cumulative financial significance, were introduced by the new legislation, of which the main new features are:

(1) *Retirement conditions.* An insured person who continues at work on reaching pensionable age does not qualify for pension until he or she retires from work or reaches the age of seventy (men) or sixty-five (women). Moreover, pensions once granted may be subject to reduction during periods of paid work after retirement but before age of seventy (sixty-five for women).

(2) *Increments of pension.* If retirement from work is deferred beyond age sixty-five (sixty for women) the standard pension is augmented by an increment of 1*s.* a week for life for every twenty-five contributions paid after pension age. In the case of a married man there is a further 1*s.* a week for each twenty-five contributions paid by him if both he and his wife are over pensionable age. These increments are subject to a maximum of 10*s.* for a single person and 20*s.* for a married couple.

(3) *Dependant's allowance.* Dependant's allowance is payable to a pensioner who has retired or attained age seventy at the rate of 16*s.* a week for a wife under age sixty and 7*s.* 6*d.* a week for the first dependant child. This is paid whether the pensioner attained sixty-five before or after July 5, 1948.

The numbers of pensions in payment at March 31, 1949, were actually somewhat less than the final numbers under the old scheme, due to the introduction of the retirement conditions. Retirement pensions are subject to reduction below the standard rates in the case of a pensioner who undertakes any form of gainful occupation between the age of sixty-five and seventy (between sixty and sixty-five for a woman) when the benefit is reduced by 1*s.* a week for each 1*s.* of earnings after the first 20*s.* Since the issue of the Actuary's report it is understood that this particular section of the scheme is under consideration in view of many representations which have been made to the government.

Interesting statistics are included in the report showing the increments now being paid as the result of deferment of retirement. By March 31, 1950, of the 4,161,000 pensioners about 18,000 were drawing increments. Of these about 11,800 were receiving one increment of 1*s.* a week, 5,600 two increments and 600 three increments. About half of the total receiving increments were men; nearly one-fifth were women pensioners in their own right; and nearly one-third were wives of pensioners or widows of insured men. The proportion of pensioners with increments will grow for many years as the number of pensioners who have reached pensionable age after the appointed day increases. Some further light on this matter is obtained from the figures relating to new awards. Of the 262,000 retirement pensions awarded during the year 1949-50, just over six *per cent.* received increments for deferment of retirement after pensionable age. The proportion varies considerably. Thus, in the case of men about 9½ *per cent.* of the awards received increments and nearly seven *per cent.* of wives had their pensions increased, but only about 3½ *per cent.* of women receiving pensions on their own insurance stayed at work long enough after age sixty, to earn one or more increments. As the majority of award of retirement pensions to widows are the continuation of pensions drawn before the age of sixty, the proportion of these qualifying for increments was only 1¼ *per cent.*

LOCAL GOVERNMENT EXHIBITION

An exhibition illustrating aspects of local government from the earliest times is to be held by Northamptonshire Record Society at Northampton Public Library in connexion with its thirtieth annual meeting on May 25.

It will include education, justice (which goes back to the manorial courts), public health, care of the poor, the police (oldest service of all, traced back to the origin of parish constables) and roads and bridges.

Professor J. G. Edwards, director of the Institute of Historical Research at London University, will give the address at the meeting.

ANOTHER OUTRAGEOUS SUGGESTION

Why is GAIUS
So pronounced by us?
Adopting the pattern of Caius
Shouldn't we call him Cheese?

J.P.C.

CORRESPONDENCE

The Editor,
Justice of the Peace and
Local Government Review.

From Sir Leo Page

DEAR SIR,

JUSTICES AND MOTORING OFFENCES

In my article I endeavoured to show that the duty of benches to protect the public necessitated in bad cases imprisonment and, above all, suspension of licences: fines were the least important point. I quoted not only the Home Office but the great authority of the Lord Chief Justice in support of my views, and I pointed out that Parliament had clearly intended imprisonment and suspension to be the normal punishment of reckless and dangerous driving.

In his letter, however, Mr. Macassey does not even mention either imprisonment or suspension of licences. I fear that the views of the Home Office and Parliament mean little to him. As for those of the Lord Chief Justice he dismisses them contemptuously by saying that the pronouncements of High Court Judges on these matters " are not necessarily always in focus." Can one really wonder that there are those who say that the country needs special Traffic Courts?

Yours faithfully,
LEO PAGE.

Newton House,
Faringdon,
Berkshire.

The Editor,
Justice of the Peace and
Local Government Review.

From Professor A. L. Goodhart, K.B.E., K.C.

DEAR SIR,

JUSTICES AND MOTORING OFFENCES

Mr. Kenneth Macassey's letter criticising Sir Leo Page's article in your issue of April 14 is an astonishing one, for the chairman of an important country bench does not seem to recognize the distinction between a summons by the police and a conviction by the magistrates. He says that " if the police yardstick for dangerous driving summonses was uniform Sir Leo Page's stricture under this head might carry some weight but some police authorities are free with these, others rather the reverse. It may well be therefore that the £5 average so far from proving the incompetence of benches shows that a proportion of these summonses do not fit the circumstances." Apparently Mr. Macassey failed to notice that the statistics cited by Sir Leo Page were based on convictions after trial and not on summonses, which would obviously be absurd. It is, I believe, inconceivable that in these cases the magistrates have convicted drivers of dangerous driving when they were guilty of nothing more than " a momentary lapse more serious, but often not much more serious, than the mere error of judgment which is a good defence to proceedings," but this is what Mr. Macassey must be accusing his fellow-magistrates of doing if his argument is to have any foundation. The figures cited by Sir Leo Page show that in 1949 there were 3,955 *convictions* for dangerous driving and that the fines totalled £21,373, or slightly over £5 per conviction. The inevitable conclusion is that in most of these cases the magistrates were either wrong in convicting the driver of a serious offence, or that the penalty they inflicted was an inadequate one. The only other explanation is that the magistrates are in agreement with Mr. Macassey that dangerous driving is frequently not a serious offence. This is the point of view which Sir Leo Page attacked in his article.

Mr. Macassey brushes aside the Lord Chief Justice's carefully considered advice on this subject because " High Court pronouncements on motoring penalties are not necessarily always in focus." He probably dismisses in the same light-hearted manner the forceable views recently expressed by the Home Secretary. May I, therefore, suggest that he should read the letter published by his fellow magistrate, C. K. Allen, K.C., in *The Times* pamphlet entitled *Accidents on the Road*, p. 48, in which he says: " Punish these offenders in a way which they will feel, and in bad cases send them to prison by all means if nothing less seems adequate; but, above all, keep them off the road for a good long time." Sir Leo Page was merely expressing the same view in his article when he urged the magistrates to recognize that " the problem of road accidents is of desperate urgency."

Yours faithfully,
A. L. GOODHART.

University College,
Oxford.

The Editor,
Justice of the Peace and
Local Government Review.

From the Chairman of West Kent Quarter Sessions and Recorder of Hastings

DEAR SIR,

JUSTICES AND MOTORING OFFENCES

I am astonished that this question can be discussed, as it has been, both in your " Notes of the Week " and by your contributors without reference to the fact that juries simply will not convict if they know that conviction will be followed by disqualification and that there is a real chance of imprisonment. If justices impose severe penalties accused persons will elect trial and will go free. This view is undoubtedly held by all justices who have any experience of the readiness with which juries of any calibre or composition will disbelieve police and doctors in charges of " driving under the influence."

Yours truly,
GERALD THESIGER.

44, Chelsea Park Gardens,
Chelsea, S.W.3.

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

" KEEPING COUNCILLORS INFORMED "

I have read your Note of the Week under the above heading at p. 209 with some interest, and, whilst in general I agree with many of the views you put forward, I am puzzled by one of your suggestions concerning the ways in which the council as a whole can keep a check on the activities of committees with delegated powers.

You say that in the extreme case when such a committee report is brought before the council, a councillor might move that the council should disapprove of the committee's action. It is true that later you observe that if action has already been taken in virtue of delegated powers a motion of disapproval, if successful, will not of itself undo what has been done, but it seems to me that in any case a motion to approve or disapprove the action of a committee with delegated powers is completely out of order. Where delegated powers are given to a committee, it is my opinion that as soon as that committee reaches a decision, in effect the whole council have decided a course of action, and that cannot be reversed retrospectively. No difficulty arises about the withdrawal of delegated powers so far as future action is concerned, but I consider that a decision already made by a committee with delegated powers cannot be dealt with as though these powers had not been given; otherwise there would be no point at all in delegating some of the council's powers to a committee.

Yours faithfully,
J. H. SMITH.
Town Clerk.

Town Clerk's Office,
Corporation Offices, Lincoln.

PARLIAMENTARY INTELLIGENCE

Progress of Bills

HOUSE OF LORDS

Tuesday, May 8

DANGEROUS DRUGS BILL, read 2a.

Wednesday, May 9

BRITISH TRANSPORT COMMISSION BILL, read 2a.
NATIONAL HEALTH SERVICE BILL, read 2a.

HOUSE OF COMMONS

Monday, May 7

NATIONAL HEALTH SERVICE BILL, read 3a.

Tuesday, May 8

DIRECTORS, ETC., BURDEN OF PROOF BILL, read 1a.
WORKMEN'S COMPENSATION (PNEUMOCONOSIS) BILL, read 1a.

Wednesday, May 9

TELEGRAPH BILL, read 1a.

EPITAPH ON ANOTHER CHANCERY MAN

He came to Equity—white wig and virgin bands.
He did his Equity and left—with cleanish hands.

J.P.C.

THE WEEK IN PARLIAMENT

From Our Lobby Correspondent

Just before Parliament adjourned for the Whitsun Recess, Miss P. Hornsby-Smith (Chislehurst) asked the Secretary of State for the Home Department whether he would introduce legislation to grant to members of all other county councils the same exemption from jury service which already applied to all members of the London County Council and to all members of any municipal corporation of any borough so far as it related to a jury summoned to serve within the area of their county.

The Secretary of State for the Home Department, Mr. J. Chuter Ede, replying in the negative, said that the claims of county councillors for exemption from jury service could not be considered in isolation from the claims of other classes of persons, and time was not at present available for comprehensive legislation on that topic.

Miss Hornsby-Smith: "Would not the right hon. Gentleman agree that the burden of public service carried out by members of large local authorities who do not enjoy the privilege enjoyed by members of the London County Council is certainly as great and as much a burden on their time as are the duties carried out by members of a small borough authority who enjoy that privilege."

Mr. Ede: "No. I think this matter wants to be looked at on quite a comprehensive basis, because we would only be increasing the number of anomalies if we had piecemeal legislation."

In reply to further supplementary questions, Mr. Ede said he was collecting the various anomalies that existed, and when he had them complete he would endeavour to see whether it was possible to make proposals to the House.

THE ADJOURNMENT

Parliament has now adjourned until May 29.

PERSONALIA

APPOINTMENTS

Mr. Joseph T. Molony has been appointed borough recorder for Devizes in succession to the Hon. E. E. S. Montagu, K.C., who has been appointed recorder of Southampton. Mr. Molony was called to the Bar in 1930.

Mr. John B. Haworth, deputy town clerk of the borough of Stockton-on-Tees, has been appointed town clerk in place of Mr. Frank Hill who is taking up a similar appointment at Gillingham. Mr. Haworth has held previous positions at Uxbridge, Wembley, Fulham and Accrington.

Mr. Walter Parkes, M.A., second assistant solicitor to the metropolitan borough of St. Marylebone, has been appointed senior assistant solicitor to the royal borough of Kensington.

Miss E. H. R. Montgomery, a probation officer at Leicester since December, 1948, has taken up a similar appointment in the London Probation Service. Miss Montgomery has previously held a similar position in the Buckinghamshire Combined Probation Area. Miss E. Guillery, B.Sc., takes the place of Miss Montgomery at Leicester. She has recently completed a period of training under the Home Office scheme.

OBITUARY

Mr. St. John Gore Micklethwait, K.C., died recently at the age of eighty. He had been recorder of Reading for twenty-eight years. Called to the Bar in 1893, Mr. Micklethwait became a K.C. in 1926. In 1934 he was appointed deputy chairman of the Middlesex Quarter Sessions and in 1939 he was appointed an additional member of the General Council of the Bar. He was at one time treasurer of the Middle Temple.

Dr. Ernest I. Watson died on April 28, at the age of eighty-four. He was clerk of the peace for the city of Norwich for twenty-five years until he retired in January, 1950. Dr. Watson was formerly a member of the Norwich Board of Guardians and a member of the city council, and in 1942 he became registrar of the Norwich Court of Record.

Mr. E. A. Bailey, M.P.S., a former mayor and alderman of Boston and an honorary freeman of the borough, died on April 17. For twenty-one years Mr. Bailey was chairman of the Public Health Committee.

REVIEWS

The Companies Act, 1948. Second Edition. By S. W. Magnus and Maurice Estrin. London: Butterworth and Co. (Publishers) Ltd. Price 50s. net.

The first edition of this work appeared in July, 1948, on the heels of the Act which, apart from some comparatively small outstanding matters, consolidated the Companies Act, 1947, and the earlier law. The authors, of whom one is a member of the Bar and the other an accountant, have now had an opportunity to correct the minor slips (which inevitably occur in a textbook brought out quickly, to deal with an Act just passed), and have brought the book up to date by including such decisions as there have so far been, and also the Companies (Winding Up) Rules, 1949, the Companies (Forms) Order, 1949, and some other statutory instruments. Particular attention should be drawn to the specimen forms of accounts in appendix II which have been amplified since the first edition. The preface states that the work is not intended to be an exhaustive treatise upon company law, but it certainly is a comprehensive and adequate guide to the Act of 1948 and all related matters. Apart from the annotation of that Act section by section, upon the lines and in the style which have been standardized in works of similar size published by Messrs. Butterworth, there are a number of appendices dealing with practical matters, such as the raising of capital, the relevant provisions of the Income Tax Acts and Finance Acts, and sound procedure in the company secretary's office and upon the winding up of companies. Although the work bears date February, 1951, it was found possible to include the latest Rules of the Stock Exchange bearing upon company practice, which did not come into force until January, 1951. The book is thus completely up to date. To the limited extent that we ourselves have to deal from time to time with company law and practice, we have already found the legal notes helpful, in pointing the way to answers we could give our correspondents, and we have no doubt that any of our readers who are regularly concerned with matters relating to companies will find guidance, upon whatever problems concern them for the time being. Including the statutory instruments, Stock Exchange Rules, and other subsidiary matter (among which the table of penalties for offences in regard to companies may be particularly useful to our magisterial readers). The book runs out nearly to eight hundred pages, the index to some eighty pages. We mention this to indicate what a quantity of information the work contains. The Companies Act, 1948, is we believe the longest Act now in force and, despite the care bestowed upon its draftsmanship, it is an inevitably difficult and complicated measure, by reason of the variety of topics which can arise in connexion with companies, virtually all of these topics being dealt with in the Act. Hardly any general practitioner can afford to be without a proper textbook on this subject; for all daily purposes we do not, within the limits which Mr. Magnus and Mr. Estrin have set themselves, expect to find a work more generally useful.

Lag's Lexicon. By Paul Tempest. London: Routledge and Kegan Paul Ltd. Price 10s. net.

We gather from the preface that the author of this work served a sentence of five years for manslaughter; this gave him an opportunity, as he says, to absorb the atmosphere of the unnatural life of the prison and to understand, if not to speak, the language of that isolated world. As an educated man, he was fitted to take mental note of what he saw and heard; there is thus much information in the work which may be useful to many of our readers who, as legal practitioners, or visiting justices, or police officers, have to deal with the prison population—and with people who have been or ought to be in prison. The work strikes us, nevertheless, as curiously patchy. There are phrases such as "don't want to know," which seem to have nothing to do with prison language in particular The same may be said of many words noted in the lexicon. "Tart" is a vulgarism used as freely out of prison as inside, and so is "char": "pony" is hardly even a vulgarism, nor is "dope," today. Some words given are commonplace Americanisms such as "hot" and "rod." There are, however, many words which, even if they are known outside, have a special prison flavour, or at any rate are much more likely to be found amongst people of the prisoner type. Such words as "chiv" and "pussy" may be mentioned: some, like "snout" and "haircut" and "tapeworm," have demonstrably a prison origin. On the other hand it seems curious to find in the same work detailed information about the issue of pyjamas, and the names of various prisons. We are left with the impression that the author has tried to do two different things in the same book. One is to include in small compass as much information as possible about the present day working of the prison system: thus one is told that each day a prison officer is detailed as a messenger; that there are housemasters at borstal, and that boots are not issued except to men working on outside parties. Under the same heading may be mentioned the comprehensive account of execution practice and procedure (which the author can hardly have acquired whilst he was under sentence) and, equally, the two-page account of the menus supplied. On the other hand, there is the miscellaneous information about the use of particular words; many of these verbal entries introduce interesting little essays—as for example what is said about death sentences in the U.S.A., and economy in the Colonies with hangman's ropes, or the writing of bogus love letters by prisoners. It is suggested by the publishers that the work will be of interest as a "bedside book," and we can well believe it. We find it difficult to classify as between the recreative and the useful, because it has merits for both purposes. Even amongst our own policemen readers, visiting justices and members of visiting committees, and others who have opportunities for acquiring the sort of information the book contains, there will be many who find their knowledge and vocabulary enriched by its perusal. The publishers have on the dust cover (as is so often done) overcalled their hand by describing it as a "comprehensive dictionary and encyclopaedia of the English prison today," but, more modestly, it can be recommended for amusement coupled with some education to all who take either an academic or a practical interest in prisoners and prisons.

The Trials of Patrick Carraher. Edited by George Blake. (Notable British Trials). Edinburgh: William Hodge and Company Ltd. Price 15s.

The trials in Glasgow of Patrick Carraher do not provide any legal point of outstanding importance, but they are of interest in various ways. Here was a man who on August 14, 1938, killed another man by a blow with a sharp instrument. He was at the time under the influence of alcohol, and the jury found him guilty of culpable homicide. For this he was sentenced to three years' penal servitude. On November 23, 1945, Carraher killed another man, again by the use of a sharp instrument. On this occasion he was found guilty of murder and was duly hanged.

The author of this book states that from 1928 until the end of the second World War there were no hangings in Scotland and he says "the Crown was only too ready to reduce a charge of murder to one of culpable homicide, mixed juries only too ready to accept the lessened responsibility with relief." His later statement "Lord Pitman's charge to the jury in the first Carraher case seems to show the influence of instruction" is a somewhat remarkable one, on which we will not comment further. The author also states that the unofficial view of the Glasgow police is that two or three hangings during the 1945-6 period notably reduced the post-war exuberance of the local gangsters.

For English readers the trials are interesting as illustrating the differences in practice in this country and in Scotland. In the first trial for instance, Carraher was indicted for an assault as well as for murder, the assault relating to an earlier incident in which the murdered man was not concerned. The jury had to consider both charges when returning their verdict. The jury consists of fifteen persons and they may return a verdict by a majority. This may seem to some to be more logical than the English practice whereby justices can convict on a majority decision whereas a jury must return a unanimous verdict.

We certainly agree with the author that quite apart from any legal interest which these trials may have, students of social conditions would do well to read them in order to get a picture of the sort of life that people of Carraher's type were leading in Glasgow as recently as 1945. In neither case was there the sort of provocation or motive that one would expect in a case where murder is charged, and the two deaths resulted largely from the unsatisfactory conditions in which those connected with the incidents were living, with the resultant aimless wandering from public house to public house, and wholly excessive drinking. Such conditions are not, of course, peculiar to Glasgow.

Full details of the evidence on both cases are given, together with speeches and the judges' charges to the juries. The book is a worthy addition to the series.

Stephen's Commentaries on the Laws of England Supplement 1951. By L. Crispin Warmington. London: Butterworth and Co. (Publishers) Ltd. Price 5s. net.

This is the second annual supplement to the twenty-first edition of the *Commentaries* and brings the law up to the end of 1950. It is cumulative, and provided with a tag for slipping into the cover of vol. IV of the main work. Since the main work covers every legal topic which the articled clerk in a solicitor's office requires for his intermediate examination, there are necessarily many topics upon

which further information is required year by year. We have tested this cumulative supplement at several points, in relation to matters arising in our own fields of interest, and found that everything has been picked up, so far as information is likely to be needed by a student. The main work and supplement together are available at a cost of £6 15*s*.

BOOKS AND PUBLICATIONS RECEIVED

Mr. L. G. H. Horton-Smith has published, in booklet form, a reprint of his monograph, "Rhyming Relics of the Legal Past—A Supplement Thereto" which first appeared in these pages last December. Priced 1*s*. 9*d*. (2*s*. post free), it is obtainable from the author at 26 Riverside Road, Ravenscourt Park, W.6.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Children Act, 1948—*Contribution order in respect of child in care—Illegitimate child.*

X is an illegitimate child in the care of a county borough council under s. 1 of the Children Act, 1948. Y, who is the father of the child and living in this county, admits paternity of the child but is not making any contribution towards the child's maintenance. County council A have power under s. 26 of the before-mentioned Act to bring affiliation proceedings, by virtue of the fact that the mother resides in the area of that county. In order to save the father the expense of travelling many miles to that county, however, my council have been requested to bring proceedings under s. 23 of the Act.

Your views are requested on the question whether proceedings under s. 23 are intended to be in respect of legitimate children only whose parents are not making contributions and not to illegitimate children in respect of whom affiliation proceedings can be brought under s. 26. Section 23 begins with the words "subject to the provisions of this part of this Act," one of the provisions being the institution of affiliation proceedings under s. 26. If s. 23 is not limited to legitimate children, what other meaning can be placed on the words in s. 23 quoted above. Part III of the Act contains only four sections and unless the words quoted above have the meaning which the writer suggests, it is difficult to appreciate what other meaning can be ascribed to them.

SLAM.

Answer.

We agree that it is certainly safer to proceed under s. 26, as it is doubtful whether an order could be made under s. 23 without this. It seems to us that in s. 24 the word "father" does not include putative father and that s. 26 must be relied upon in the case of an illegitimate child.

2.—Criminal Law—*Companies—Reckless statement in report attached to balance sheet—Private company.*

The directors' report attached to the balance sheet of a private company contains a statement as to the value of the fixed assets. The valuation was made by the chairman and did not allow for any depreciation. It was obviously an over valuation made intentionally to hide the true financial position of the company. At the annual meeting he was asked questions in regard to this matter and gave answers which now show that the statement must have been made recklessly. Has he committed an offence within s. 438 of the Companies Act, 1948, or under any other section?

By whom should a prosecution be undertaken, and to whom should the facts be reported? None of the shareholders is willing to prosecute, but they are prepared to give evidence in any proceedings.

SOOFLE.

Answer.

This being a private company, there appears to be no statutory obligation to circulate such a report; Companies Act, 1948, s. 130 (10). It does not appear, therefore, that the report was required for the purposes of the Act so as to bring the case within s. 438.

Where an offence has been committed, any person may prosecute, *see* s. 445, but it might be thought well to bring the matter to the notice of the Director of Public Prosecutions. In this instance, we cannot say, on the facts stated, that any offence is disclosed.

3.—Highway—*Highway not repairable—Alleged unsuitability of vehicles.*

My council recently entered into a contract with a firm of building contractors for the erection of houses. In the contract the council undertook to provide a tip into which the contractor should dispose of excavated materials. This tip was provided close to the site and, had the weather been propitious, the contractor would have proceeded with his lorries direct from the site to the tip. As it is, the contractor has proceeded from the site along a public highway not repairable by the inhabitants at large and thence to the tip. The maintenance of the public highway is undertaken by a committee of frontagers to the road, who pay to the committee annual sums for such maintenance. The committee allege that the road has suffered damage owing to its use by the contractor's vehicles and are seeking to hold my council liable. The contract is the normal form of R.I.B.A. contract, and neither it nor the general conditions lay down what route to the tip shall be followed. Will you please advise whether there are any circumstances in which the council could be liable, or the contractor could be liable, assuming that he has neither been guilty of excessive loading nor extraordinary traffic.

ABEY.

Answer.

The highway in question has presumably been dedicated (since nothing to the contrary is stated) for all traffic, including heavy lorries. Persons using highways are not obliged to take the shortest route. The owners of the soil were not bound to dedicate, or they could have dedicated for limited classes of use. As things are, they, the frontagers, and their committee, have no grievance known to the law.

4.—Licensing—*Application for licence in respect of premises owned by corporation—Licensing justices are burgesses—Whether disqualified for bias.*

Application will be made in this borough, which has a separate commission of the peace consisting of more than ten justices, for a new license in respect of premises owned by the mayor, aldermen and burgesses of the borough. The whole of the borough justices are burgesses and are therefore part owners of the premises, and as part owners they would appear to be subject to disqualification in acting as justices in the hearing of the application under s. 40 of the Licensing (Consolidation) Act, 1910.

(1) Must the borough justices under s. 8 of the Licensing (Consolidation) Act, 1910, call in adjoining county justices to deal with the application and if so can they adjourn it to the meeting of the county justices who sit in the same town directing them to deal with it or must the justices hearing the application sit in the borough court house for this purpose?

(2) Assuming the licence is granted who will be the confirming authority and renewal authority?

NINTON.

Answer.

In our opinion, the mere fact that a licensing justice is a burgess in a borough of which the municipal corporation owns premises which are the subject of a licensing application attaches a pecuniary interest so remote that it does not disqualify him for acting. No case has ever said that a disqualification arises on this ground alone, although the situation which our correspondent outlines has often arisen. *See, e.g., Leeds Corporation* v. *Ryder* (1907) 71 J.P. 484; and *cf.* Justices of the Peace Act, 1867, s. 2.

5.—Local Government Act, 1933—*Interest in contracts—Banking facilities—Co-operative society.*

Certain members of an authority are employees, or on the board of management, of a local co-operative society. The Co-operative Wholesale Society (Bankers) in providing banking facilities for the local authority would appoint the local co-operative society to act as agents for the purpose of receiving deposits and giving cash. Are the members so connected with the local society debarred from taking part in the discussions and/or voting on the project of transferring facilities to the Co-operative Wholesale Society as bankers?

AAA.

Answer.

Unless the circumstances differ from those we have generally found in these cases of co-operative societies as bankers, which have become quite usual, the councillor would be debarred by virtue of s. 76 of the Local Government Act, 1933. Section 131 of the Local Government Act, 1948, should, however, be considered; it will probably let them out.

6.—Probation—*Requirements as to attendance at club or similar organization.*

Under s. 3 (3) of the Criminal Justice Act, 1948, it is provided (*inter alia*) that "A probation order may in addition require the offender to comply during the whole or any part of the probation period with such requirements as the court, having regard to the circumstances of the case, considers necessary for securing the good conduct of the offender or for preventing a repetition by him of the same offence or the commission of other offences."

I shall be grateful of your opinion on the following points:

1. Would it be lawful under this section for magistrates to require a young person, whom they are placing on probation, to join and attend
   (a) a named youth club, or
   (b) a named youth organization or welfare organization, or
   (c) a named religious organization for a specific period?

2. If there is any difficulty in making such an order, your advice in general terms giving indications as to how any difficulties can be surmounted, would be appreciated.

Please assume that the organizations listed above have in principle, and in the individual case, agreed to accept the young person placed on probation as a compulsory member. TCM.

Answer.

We have always understood that clubs and youth organizations in general deprecated the idea of compulsion under a court order, and that it was considered undesirable that other members should know that some members were there on compulsion. That is why we are not in favour of such requirements.

In this case it is stated that we may assume the club is willing. That alters the position to some extent, and if the young person consents to the requirement we cannot say it is not lawful to insert it. We think it can be done, and the question is one of expediency.

When it comes to any question of attendance at a place of worship or the performance of any religious duty, we feel there are weighty considerations against a requirement in a probation order. Religion, it is generally conceded, should be on a voluntary basis, and better results will be obtained by influence and encouragement than by any kind of sanction. At the same time, we cannot say a requirement would be unlawful if agreed to by the probationer.

7.—Public Health Act, 1936—*Building byelaws—Approval of plans—Local authority's duty.*

Plans have been submitted to the urban district council for consideration under the council's building byelaws in respect of a garage which a developer desires to erect in a private accommodation road at the rear of his house. The road, which is not a thoroughfare or public highway, also serves a number of adjacent houses whose back gardens front on to it, and if the garage is erected vehicular access along this road will be denied to one house which is next door to the house owned by the developer. The council are informed that the owner of the adjoining house raises no objection to the erection of the proposed garage, but it is not known whether any formal release of his rights for the benefit of the developer has been made. The council are advised that provided the construction of the garage complies with the building byelaws, the council are under no duty under the Public Health Acts to consider the effect of the development on the accommodation road, and that even if, for this reason they wish to oppose the proposed development, they have no power, except possibly under the Town and Country Planning Acts, to prevent it.

I shall be obliged if you will confirm whether in your opinion this is the correct view. BYE.

Answer.

We agree: *R.* v. *Newcastle-on-Tyne Corporation* (1889) 53 J.P. 788; *R.* v. *Bexhill Corporation* (1911) 75 J.P. 385; *R.* v. *Cambridge Corporation* (1922) 86 J.P. 13.

8.—Public Health Act, 1936—*Drainage of new buildings—Public sewer privately paid for.*

I have read with interest P.P. 7 at 115 J.P.N. 31. In my district I have had a variant of the case. Owing to the inability of individual owners of five houses to obtain easements to lay drains from the curtilage of their property across intervening land of another owner to connect with a length of sewer proposed to be laid by the council, it was suggested that the lengths of the pipe to be laid from the main sewer to the curtilage of each respective house, to convey only the sewage of that house, should be regarded as a sewer, the council to serve notice on the landowner for the laying of the main length of sewer with these branch pipes to the respective curtilages. I advised that these branch pipes were in fact drains and that accordingly it was not open to the council to lay them under the provisions of s. 15 of the 1936 Act. I note that in your answer you state that "the sewer must be a public sewer" but in the query it is stated that the pipe in question is a drain, as indeed it would appear to be because it is to serve one property only. Do you consider that a local authority can lay the pipe referred to in the query and the branch pipes referred to in my case under the provisions of s. 15? In other words can a local authority apply the section to lay pipes which clearly come within the definition of "drains" merely because of difficulties in obtaining easements. AINA.

Answer.

To answer the last sentence first: we do not think so. We agree with your advice to your council. The difference between your case and P.P. 7 at p. 31, *ante*, is that the pipe for each of your five houses will be a drain and can hardly become anything else, whereas in the P.P. cited the pipe, though serving a single house at first, was capable of becoming a sewer and so could be laid by the council in advance of its being actually required as such. This was why we stressed that it must be given that character from the outset.

9.—Road Traffic Acts—*Construction and Use Regulation—Overhang—Goods carried on lowered tailboard—Overhang thereby made excessive—Is an offence committed?*

A motor lorry used for the carriage of goods just complies with reg. 38 of the Motor Vehicles (Construction and Use) Regulations, 1947, when the tailboard is closed in a vertical position. In order to carry a load sufficient to make a reasonable profit on the journey it has become necessary to lower the tailboard to a horizontal position to carry a load on the tailboard. Having regard to the definition of "overhang" in reg. 3, I shall be glad of your valued opinion as to whether an offence has been thereby committed against the provisions of reg. 38 of the regulations. JCJP.

Answer.

We find this a difficult question to answer. Part II of the regulations, in which reg. 38 is included, contains no penalty regulation and one has to look to the 1930 Act, s. 3, which makes unlawful, and penalizes, the use on a road of a motor vehicle which does not comply with the appropriate regulations as to construction, weight and equipment. It can be argued that it is difficult to say that a vehicle which,

with its tailboard vertical, complies with the overhang regulation is defective in its construction because, with the tailboard horizontal, the overhang is excessive. On the other hand one may say that if the tailboard does cause excessive overhang the construction of the vehicle should not permit the tailboard to be fixed in a horizontal position, and that if it does the construction is defective.

If this latter view be accepted an offence is committed against s. 3 of the 1930 Act. The definition of overhang is very important in that it specifically excludes from the calculation certain projections and may be said, therefore, by implication to include all others such as a tailboard.

If this view is wrong the only possible offence is, we think, against reg. 67 (penalty reg. 94) but it must then be proved that the loading is such that danger is caused or is likely to be caused, within reg. 67, by the use of the tailboard in this way.

10.—Road Traffic Acts—*Special reasons—Defendant in a responsible post which requires him to travel about and to supervise the work of others.*

A has been bound over to appear before a magistrates' court in a few days on a charge of being in charge of a motor car on a road whilst under the influence of drink, etc. A is employed by a big firm of contractors undertaking large building contracts in different parts of the midlands and southern counties and he is responsible for the carrying out of these contracts and also has charge of an appreciable number of employees. The use of a motor vehicle by him is vital in the carrying out of such contracts and in controlling the men engaged thereon under him. In the event of a conviction it is intended to put this forward as a special reason against his being disqualified for holding or obtaining a licence.

Is it your view that this would be considered a special reason in all the circumstances? J. LEX.

Answer.

No—*see* the judgment in *Whittall* v. *Kirby* [1946] 2 All E.R. 552.

11.—Road Traffic Acts—*Special reasons—No disqualifications—Endorsement of conviction on driving licence.*

In cases where the justices find special reasons for not disqualifying, should the defendant's driving licence be endorsed with a note of the conviction? Your learned opinion will be very much appreciated. JPH.

Answer.

When a court for special reasons thinks fit to order that there shall be no disqualification the power remains (under s. 6 of the 1930 Act) to order that particulars of the conviction be endorsed on the offender's licence, but it is within the court's discretion whether so to order or not.

12.—Sale of Food (Weights and Measures) Act, 1926—*Short weight discovered by inspector before delivery to customer—Offence and procedure.*

An inspector of weights and measures approached the driver of a butcher's van stopped outside a private house and asked if he was delivering meat to purchasers. The driver replied that he was delivering for X Ltd., a firm of butchers, and that the meat he was carrying on a tray was for Mrs. Y of a certain address. The inspector asked if he had a ticket indicating the weight of the meat. The driver produced a ticket giving the name of the firm, X Ltd.; the name of the purchaser, Mrs. Y; the kind of meat; the net weight sent out and the price.

The inspector checked the weight of the meat on the official scale in the presence of the driver and found it to be short of the weight given on the ticket. Other pieces of meat for delivery in the district were also checked and some found to be short.

The weight tickets were kept separate until actual delivery, the ownership of the meat being indicated by an attached label giving the owner's name only.

In view of the smallness of the meat ration and the unwillingness of the housewife to complain to her butcher for fear of reprisals it is important that action should be taken by the local authority to protect the housewife against short weight. The difficulty is to bring the matter within s. 3 of the Sale of Food (Weights and Measures) Act, 1926, in view of the decision in *Preston* v. *Coventry and District Co-op Society Ltd.* (1946) 110 J.P. 79.

I should accordingly appreciate your comments in the following points:

1. To come within s. 1 of the Act is it essential that delivery should actually be made to the housewife and before the meat is checked? In view of the unwillingness of housewives to give evidence would the inspector's evidence as to delivery be sufficient?

2. If information is laid under s. 3 would you agree that delivery of a ticket with the meat is on a par with the book placed with the bacon in the Coventry case and that therefore there can be no misrepresentation until delivery has actually been made to the purchaser or the ticket otherwise brought to the notice of the purchaser? There was a misrepresentation to the inspector but s. 3 seems to be confined to misrepresentation to the purchaser or prospective purchaser.

3. The only possible charge seems to be that X Ltd., in connexion with the sale of an article of food, committed an act calculated to mislead the prospective purchaser as to the weight of the article in that they caused to be delivered with the article a ticket stating the net weight to be A*lbs.* whereas in fact it weighed only B*lbs.* contrary to s. 3, etc. This possible alternative to an allegation of misrepresentation is suggested by the Coventry case.

4. Notice has been served under s. 12 (6) alleging "misrepresentation" under s. 3, but it is assumed that it would still be open to the local authority to lay an information under s. 3 on the lines suggested in clause 3 above. SCALES.

Answer.

1. We think the words of the section show that delivery must have taken place. We do not appreciate the phrase "and before the meat is checked." The point is misrepresentation to the customer. As to evidence of delivery, the inspector can prove this if he actually sees it.

2. We agree that misrepresentation must be to the purchaser or prospective purchaser, but we are not certain that the misrepresentation must actually reach such purchaser to constitute the offence. This case is distinguishable from the case cited, and the judgment of Humphreys, J., seems to suggest that an offence can be committed without the misrepresentation actually reaching the purchaser. In that case the defendant had made an entry in the book but had not done anything to bring it to the notice of the customer. In the present case, if the facts are as stated, the defendant company had sent the offending document to be delivered with the meat, and had done more than conceive an intention to misrepresent. On the whole, we think a prosecution under s. 3 for misrepresentation might succeed.

3. The alternative charge could certainly be preferred, subject to the prosecution being in time.

4. Yes, if they are within time, but a fresh notice should be served in accordance with s. 12 (6). As to sufficiency of notices the Road Traffic Acts, case of *Percival* v. *Ball* (1937) 107 J.P.N. 614; *Venn* v. *Morgan* [1949] 2 All E.R. 562 may be consulted.

OFFICIAL AND CLASSIFIED ADVERTISEMENTS, ETC. (*contd.*)

CITY OF CHICHESTER

Legal and Administrative Assistant (Unadmitted)

APPLICATIONS are invited for the above appointment at a salary in accordance with Grade IV of the A.P.T. Division of the National Scales of Salaries (£480—£525).

Applicants should have had general legal experience in the office of a Clerk of a Local Authority or in a Solicitor's Office, and preference will be given to applicants who have also had experience of Committee work and preparation of minutes in a Clerk's Department.

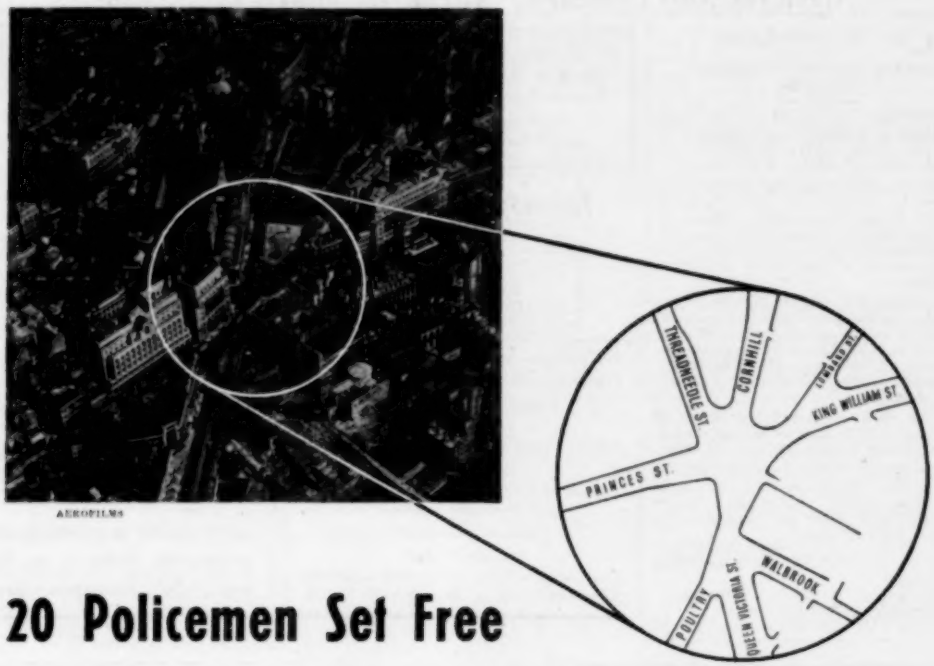
The appointment will be terminable by one calendar month's written notice on either side, and will be subject to the National Scheme of Conditions of Service and the Local Government Superannuation Act, 1937. The successful candidate will be required to pass a medical examination.

Relationship to any member or officer of the Council must be disclosed and canvassing, directly or indirectly, will be a disqualification.

Further details of the appointment may be obtained from the undersigned, by whom applications, on the form provided, in envelopes endorsed "Staff" must be received by Thursday, May 31, 1951.

ERIC BANKS,
Town Clerk.

"Greyfriars,"
North Street,
Chichester.



AEROFILMS

20 Policemen Set Free

Before 'ELECTRO-MATIC' signals were installed at this complicated junction in the vicinity of the Bank of England, London, two sergeants and eighteen policemen were required for the control of traffic. Every day, more than 35,000 vehicles cross this junction, approaching it from seven different directions.

Regulated by the traffic flow itself, 'ELECTRO-MATIC' signals have proved their efficiency and economy within a very short time. Congestion and delay have been greatly reduced and increased safety for pedestrians has resulted.

Wherever there are traffic problems, 'ELECTRO-MATIC' vehicle-actuated signals will solve them. In use throughout the world, they provide the perfect control system for today's ever-increasing traffic.

ELECTRO-MATIC VEHICLE-ACTUATED **SIGNALS**

'ELECTRO-MATIC' is the registered trade mark of Automatic Telephone & Electric Co. Ltd.

AUTOMATIC TELEPHONE & ELECTRIC COMPANY LIMITED

Strowger House, Arundel Street, London, W.C.2. Telephone: TEMple Bar 4506. Telegrams: Strowger, Estrand, London.

A.10361-B23

STROWGER WORKS, LIVERPOOL 7.

Printed by R. J. ACFORD Ltd., Terminus Road, Chichester, Sussex, and published by the Proprietors, JUSTICE OF THE PEACE, Ltd., at the Office of the "Justice of the Peace and Local Government Review," Little London, Chichester, Sussex. SATURDAY, May 19, 1951. Price 1s. 8d., post free 1s. 9d.